

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA**

THE CITY OF NEW YORK, *et al.*,

*Plaintiffs,*

v.

U.S. DEPARTMENT OF DEFENSE, *et al.*,<sup>1</sup>

*Defendants.*

No. 1:17-cv-01464  
Hon. Claude M. Hilton  
Hon. Michael S. Nachmanoff

**DEFENDANTS' MOTION TO DISMISS**

Pursuant to Federal Rules of Civil Procedure 12(b)(1) and (b)(6), Defendants, the U.S. Department of Defense, its components, and its officials, through their undersigned counsel, hereby respectfully move this Court to dismiss the complaint for lack of subject-matter jurisdiction and failure to state a claim. The grounds for this motion are fully explicated in the simultaneously-filed memorandum of law in support of the motion.

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<sup>1</sup> Rear Admiral John B. Nowell, Commander, Navy Personnel Command, is substituted for Rear Admiral Richard A. Brown as a defendant in this case pursuant to Federal Rule of Civil Procedure 25(d).

Respectfully submitted this 5th day of March 2018,

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/s/  
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**CERTIFICATE OF SERVICE**

I hereby certify that on this date, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will transmit a true and correct copy of the same to the following:

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